

AO 91 (Rev. 08/09) Criminal Complaint

FILED

MAR 12 2024

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT

for the

Northern District of Oklahoma

United States of America

v.

Brandon Earl Presley

Case No.

24-MJ-148-JFJ

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 1, 2023 through March 8, 2024 (Count 1)
and February 20, 2024 (Counts 2 and 3) in the county of Tulsa in the
Northern District of Oklahoma, the defendant(s) violated:*Code Section**Offense Description*18 U.S.C. §§ 1151, 1153, and 2243
(a)

Sexual Abuse of a Minor in Indian Country

18 U.S.C. §§ 2251(a) and 2251(e)

Production of Child Pornography

18 U.S.C. §§ 2252(a)(4)(B) and
2252(b)(2)

Possession of and Access with Intent to View Child Pornography

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.*Complainant's signature*

Dustin Carder, Special Agent, HSI

Printed name and title

Sworn to before me by phone.

Date:

3/12/24

*Judge's signature*

City and state:

Tulsa, OK

Jodi F. Jayne, United States Magistrate Judge

Printed name and title

**Affidavit in Support of an Arrest Warrant
in the Northern District of Oklahoma**

I, Dustin L. Carder, being duly sworn under oath, do hereby depose and state:

INTRODUCTION AND AGENT BACKGROUND

1. I have been employed as a Special Agent ("SA") with Homeland Security Investigations ("HSI") since December 2018. I am currently assigned to the Office of the Resident Agent in Charge in Tulsa, Oklahoma, and am currently assigned to investigate crimes involving child exploitation. While employed by HSI, I have investigated federal criminal violations related to child exploitation and child pornography. I have gained experience through training at the Federal Law Enforcement Training Center's ("FLETC") twelve-week Criminal Investigator Training Program ("CITP") and the sixteen-week Homeland Security Investigations Special Agent Training ("HSISAT") program, and everyday work relating to conducting these types of investigations. I have received training in the area of child pornography and child exploitation and have observed and reviewed numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media, including computer media. I have received focused child exploitation training covering topics such as: interview techniques, live streaming investigations, undercover investigations, capturing digital evidence, transnational child sex offenders, and mobile messaging platforms utilized by these types of offenders. I have been involved in several child pornography investigations and am familiar with the tactics used by individuals who collect and distribute child pornographic material.

Moreover, I am a federal law enforcement officer who is engaged in enforcing the criminal laws, including 18 U.S.C. §§ 2243, 2251, 2252, and 2252A.

2. As part of my duties as a Special Agent, I investigate criminal violations relating to crime in Indian Country, to include Sexual Abuse of a Minor in Indian Country, in violation of 18 U.S.C. §§ 1151, 1153, and 2243(a); Production of Child Pornography, in violation of 18 U.S.C. §§ 2251(a) & 2251(e); and Possession of and Access with Intent to View Child Pornography, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and 2252(b)(2).

3. I am familiar with the facts and circumstances of this investigation. The facts set forth in this affidavit are based on my personal observations, knowledge obtained from other law enforcement officers, my review of documents related to this investigation, conversations with others who have personal knowledge of the events and circumstances described herein, and a review of open-source information including information available on the Internet. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of the application for an arrest warrant, it does not set forth each and every fact I or others have learned during the course of this investigation.

4. It is my belief that an Indian male known as Brandon Earl PRESLEY, DOB xx-xx-1995; SSN xxx-xx-9766, an enrolled member of the Muscogee Creek Nation, has violated Title 18 U.S.C. §§ 1151, 1153, and 2243(a) Sexual Abuse of a Minor in Indian Country on or about October 1, 2023 through

on or about February 20, 2024, Title 18 U.S.C. §§ 2251(a) & 2251(e).¹ Production of Child Pornography on or about February 20, 2024, and Title 18 U.S.C. §§ 2252(a)(4)(B) and 2252(b)(2), Possession of and Access with Intent to View Child Pornography, in that on or about February 20, 2024, PRESLEY sexually abused 13-to-14-year-old MV2 by engaging in vaginal and oral sex in Indian Country. He used the same minor victim to create a visual depiction of sexually explicit conduct, and possessed and had access with intent to view child pornography. The above offenses occurred in Tulsa, Tulsa County, Oklahoma, within the boundaries of the Muscogee Creek Nation Reservation, which is within “Indian Country,” as that term is defined under 18 U.S.C. § 1151, in the Northern District of Oklahoma.

PROBABLE CAUSE

5. At all times relevant to this affidavit, Brandon PRESLEY is a citizen by blood of the Muscogee (Creek) Nation, having been enrolled on September 29, 2005. The Muscogee (Creek) Nation is a federally recognized Indian tribe.

6. On March 6, 2024, Brandon PRESLEY was arrested at his home in Bixby, Oklahoma, without incident by the Bixby Police Department (BPD) on an outstanding State of Oklahoma arrest warrant out of Cleveland County for Rape 2nd Degree. On March 8, 2024, PRESLEY was transferred to the Cleveland County Jail on the warrant and remains eligible to bond out.

¹ Production of Child Pornography requires the depiction of “sexually explicit conduct.” 18 U.S.C. § 2251(a) “Sexually explicit conduct” is defined, in relevant part, as “actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal.” 18 U.S.C. § 2256(2)(A)(i).

7. The Cleveland County arrest warrant stemmed from an ongoing HSI, BPD, Tulsa County Sheriff's Office (TCSO), and Norman Police Department (NPD) investigation into PRESLEY. The following paragraphs outline this offense that occurred in Cleveland County, Oklahoma, as it is pertinent to the described offenses herein that occurred within the Northern District of Oklahoma. It is pertinent to the current investigation as it explains how I came to possess PRESLEY's cellular phone, which provided information related to the identification of the current victim.

8. Two victims will be named in this affidavit. The Cleveland County Investigation will refer to a minor child referred to as MV1. The current investigation will refer to a minor child referred to as MV2.

Cleveland County, Oklahoma Investigation

9. On February 15, 2024, I received information from BPD in reference to rape that had taken place in Norman, Oklahoma, in Cleveland County (BPD report # 24-0300-OF). I learned that the incident took place at or near the University of Oklahoma campus on February 10, 2024, during a track meet, which the Bixby Public Schools track team participated in along with several other schools.

10. On February 15, 2024, Bixby Police Department Officer Nathan Jones was notified by his dispatch of an anonymous tipline report. The tip referenced a Bixby Ninth Grade Center student possibly having sex with an adult male on February 10, 2024.

11. The tip stated that on February 10, 2024, while at a track meet at the University of Oklahoma indoor track, 14-year-old MV1 and a 29-year-old male had

sex in his car. The tip reported that both individuals went to his car, and drove to an abandoned parking lot and had sex, then returned to the track meet. The person who made the tip said they knew about the event because MV1 is a friend and told her about it. The tipster also said the male solicited sex from another juvenile female who told him no.

12. The male is someone who often hangs out at Bixby track meets and track practices in his car. The male is not a coach, but sometimes helps out at practices and knows the coaches. The male is said to be a 29-year-old, African American male of average height. The tip included a photograph of the male individual.

13. Based on the tip provided to BPD, the photograph included with the original tip and information provided by MV1, I identified the suspect as Brandon PRESLEY. The photograph submitted with the tip is the same on PRESLEY's current Snapchat² public profile under username "bpres26101." I know the 29-year-old man to be Brandon PRESLEY, who I am investigating for sexually exploiting three additional teenage girls. Through that investigation, I know that PRESLEY was a football coach at Bixby Public Schools. PRESLEY was terminated from Bixby Public Schools following his last involvement with a minor child in 2019.

² Snapchat is an American multimedia instant messaging app and service developed by Snap Inc., originally Snapchat Inc. One of the principal features of Snapchat is that pictures and messages are usually only available for a short time before they become inaccessible to their recipients.

14. Based on the tip, Officer Jones contacted MV1's mother, L.A., by telephone. He informed her who he was and the reason for calling. L.A. confirmed MV1 was at a track meet in Norman on February 10, 2024. Officer Jones told L.A. there had been an anonymous report that named her daughter, and he told her the nature of the report. L.A. said she did not have any knowledge of that event taking place. L.A. became emotional and was upset by that information.

15. MV1 eventually told L.A. that MV1 has been speaking with a man that she identified as Brandon P for some time. PRESLEY told MV1 that he was 20 years old. MV1 believed that PRESLEY possibly had a sophomore brother that attended Bixby schools. MV1 told L.A. she used a friend's phone to speak with PRESLEY and arrange to meet at the track meet. In a forensic interview, MV1 said that she used a friend's phone to log into MV1's Snapchat account to communicate with PRESLEY. MV1 said that the meeting was arranged a week in advance. MV1 told L.A. during the 1034–1113-hour time frame shown on the Life360 app when she was not in the OU track building, she met PRESLEY and they went to an abandoned building nearby and had sex. MV1 said PRESLEY told her not to tell anyone, because one time a teacher got involved with someone and the teacher got sent away for a long time. MV1 disclosed that PRESLEY knew she was only 14 years old. MV1 believed that PRESLEY was 20 years old because that is what he told her.

16. MV1 talked to PRESLEY again the following Monday. PRESLEY told her that he was thinking about Saturday and wanted to meet up with her again, and he talked about having a relationship with her in the future. After learning his true

age, MV1 confronted PRESLEY and he said telling her he was 20 was a “miscommunication.”

17. On February 22, 2024, in the Northern District of Oklahoma, I was granted three sealed search and seizure warrants relating to PRESLEY’s person and vehicle for evidence of Title 18 USC §2422 – Coercion or Enticement of a Minor. The warrants were authorized by the Honorable Susan E. Huntsman, U.S. Magistrate Judge.

18. The search warrants of PRESLEY’s car and person authorized the seizure of electronic devices, including cell phones, and the stored communications and files located therein pertaining to PRESLEY and MV1. I helped execute those warrants on February 23, 2024.

19. PRESLEY’s cell phone, later determined to be an Apple iPhone 12, was observed in plain view on the front passenger seat, and was plugged into a charging cord. PRESLEY was asked if that was his phone, and he replied, “yes.” Deputy Osman then served PRESLEY with a protective order as well, and left the scene.

20. Based on my training and experience, I know that Apple iPhone 12s are not manufactured in Oklahoma. Therefore, it is reasonable to believe that PRESLEY’s Apple iPhone 12 traveled in interstate or foreign commerce before arriving in PRESLEY’s possession in Oklahoma.

21. Forensic analysis of the Apple iPhone 12 commenced on February 26, 2024, at HSI Tulsa by HSI Computer Forensic Analyst (CFA) Anthony Meter. CFA Meter provided me with a copy of the extracted data for review.

22. The phone number associated with the device is (xxx) xxx-4933; the Apple ID is brandonpresley5@icloud.com. There are two IMEIs associated with the phone: 353779338642095, and 353779339027718.

Current Investigation Involving Newly Identified Minor Victim

23. On or about March 6, 2024, while reviewing PRESLEY's iPhone data, I located an image with filename "5A61D077-CAC4-4D79-B6CC-D042FD66201D.jpg" with a created date and time/last accessed date and time/and last modified date and time of February 20, 2024, at 1:18:13 PM (Central Time). The image was "cached", and the complete metadata associated with the image is not available. Cached memory is randomly stored data to allow a device to run faster. The device stores frequently used or most recently used data to allow a user to access that data faster. Based on my training and experience, "cached" data is device controlled and it is not user controlled, therefore the user is most often unaware that it is stored on his or her device. However, the image's file path, or the identity of the images location on PRESLEY's phone, is representative of the common file path of images on an Apple iPhone. Based on my investigation, I know PRESLEY was using his iPhone 12 during the complaint's alleged time frame, and the phone

number associated with PRESLEY's iPhone 12 is the phone number associated with PRESLEY throughout my investigation.

24. This image depicted what appeared to me to be a minor female performing oral sex on a black male. Only one side of the female's face was visible, but she had brown hair that was in a ponytail, acne on her cheek, and was wearing a black hoodie. The female was holding the penis of the black male with one hand while her mouth was on the male's penis. There is an open white door in the background, and a closed white door next to the open door.

25. I then utilized the forensic software to create a timeline of events on PRESLEY's phone and I reviewed the phone artifacts listed for February 20, 2024, at 1:18 PM. I discovered a cached location for PRESLEY's phone for that date and time that had GPS coordinates (36.0687694838606, -95.8705392201393). Upon entering those coordinates into Google Maps³, I learned the address associated with the coordinates is on East 65th Street, Tulsa, Oklahoma 74133. This is an apartment building located within the Somerset Apartments complex in Tulsa, Oklahoma, which is within the territorial boundaries of the Muscogee (Creek) Nation Indian Reservation and the Northern District of Oklahoma.

26. I provided Detective Matt Gray with a copy of a sanitized image of the possible victim so that he could attempt to identify the female. On March 8, 2024,

³ Google Maps is a web mapping platform and consumer application offered by Google. It offers satellite imagery, aerial photography, street maps, 360° interactive panoramic views of streets, real-time traffic conditions, and route planning for traveling by foot, car, bike, air and public transportation.

Detective Gray spoke with the apartment complex manager. Detective Gray showed the manager where PRESLEY's phone data, previously described above, was located on the east side of the one of his apartment buildings and he informed Detective Gray of the associated building number. Detective Gray then asked if there were any juveniles showing to be residing in the building in question and specifically in the middle east side of the building.

27. The apartment manager informed Detective Gray that there was currently only one juvenile showing to be occupying any of the apartments in building, and it happened to be exactly where the ping was displayed. The manager provided Detective Gray with the apartment number and stated it currently being leased by K.L. and C.L., who have a 14-year-old daughter, MV2.

28. Detective Gray went to the apartment provided by the manager. He made contact with K.L. and informed him that he was trying to locate a possible victim. Detective Gray asked him if he had a 14-year-old daughter. K.L. acknowledged having a 14-year-old daughter and asked what this was all about. Detective Gray showed K.L. the sanitized image provided by me. K.L. instantly broke down, became extremely upset and started to cry. K.L. informed Detective Gray the girl in the image was his daughter, MV2. Lowe went on to state that he could tell that they were in his room on his bed due to being able to see and identify the closet to the right of his opened door to his room.

29. Lowe informed Detective Gray that MV2 was inside the apartment and that she had been suspended from school and stays at home by herself while he and

his wife go to work. This explains why the sex act captured on PRESLEY's device could occur at 1:18 PM, during the day when MV2's parents are at work.

30. Lowe agreed to have MV2 forensically interviewed. Detective Gray arranged for MV2 to be interviewed that day. K.L. did not have access to a vehicle at that time and he and MV2 were transported to the Child Advocacy Center in Tulsa by Detective Gray.

31. During MV2's forensic interview, MV2 was shown a photograph of PRESLEY, and she positively identified PRESLEY as the subject who sexually abused her. MV2 was also shown the sanitized image described above. MV2 identified herself in the sanitized image, and said the act took place in her apartment.

32. MV2 stated that she started talking to PRESLEY in October 2023. She began talking to him on Instagram⁴ and then Snapchat. She believes he found out her Snapchat due to having it displayed on her Instagram. She went on to state that she and PRESLEY would talk at least once a week on Snapchat but none of the messages are saved. MV2 stated PRESLEY asked her age, at which time she informed him that she was 13. PRESLEY told MV2 that he was 28.

33. MV2 stated that PRESLEY asked her to come to the football games with him and that she could leave with him and receive a ride home as well. MV2 stated that she continued to tell him no every time he would ask and then PRESLEY

⁴ Instagram is an photo and video sharing social networking service owned by Meta Platforms. It allows users to upload media that can be edited with filters, be organized by hashtags, and be associated with a location via geographical tagging. Posts can be shared publicly or with preapproved followers.

started asking her if she could sneak out of her house or if he could just come over for a little while.

34. The following paragraphs summarize approximately three sexual incidents between PRESLEY and MV2. She had some difficulty remembering the exact dates of the incidents during the interview.

35. MV2 stated that she finally gave in and sent PRESLEY the address of her residence and he showed up. She stated that prior to PRESLEY coming over, he sent her a video of a male and another girl having sex. When PRESLEY arrived, he informed MV2 that the male in the video was in fact him. MV2 stated that the girl in the video appeared to be an adult and it was sent via Snapchat.

36. She said they both started watching television on the couch in the living room and then shortly after, PRESLEY asked if there was a room in the back and if she wanted to go back there with him. PRESLEY got up off the couch, started to walk to the bedroom and then instructed her to "come on."

37. When she went back into her parents' bedroom with PRESLEY, he put his hand on her thigh, picked her up and placed her on top of him, where he began to kiss her on her mouth. From there, PRESLEY took her shirt off, then took his pants off.

38. MV2 got up and put her shirt back on. PRESLEY then asked if she has ever done this before. MV2 stated no. She stated that PRESLEY coached her on how to give oral sex and then she did.

39. PRESLEY told her to keep going and to spit on his penis. She stated that she stopped because she did not know how to do it, so he said go faster. PRESLEY then took her shirt off again and instructed her to take her pants off. After MV2 took her pants off, PRESLEY put her face down looking away from him.

40. Shortly after, PRESLEY inserted his penis inside MV2's vagina. MV2 stated that she was not sure how far his penis was inside her vagina, but it hurt, so she told him to stop. PRESLEY then turned MV2 around on her back, held her legs up and inserted his penis again into her vagina.

41. She again told PRESLEY that it hurt too bad, and PRESLEY stopped. At that time, MV2 stated they both put their clothes back on and went back to the living room where they set on the couch. PRESLEY then asked if they could try it again. MV2 told him that it hurt too bad, and PRESLEY replied by stating, "its gonna hurt a little."

42. PRESLEY asked if she liked sucking his penis and if she wanted to try that again. After PRESLEY asked her to suck his penis again, he took off his pants and asked her if she wanted him standing up or sitting down. PRESLEY sat back down and MV2 proceeded to give PRESLEY oral sex.

43. After giving PRESLEY oral sex on the couch in the living room, MV2 went to the bathroom and stated that when she went to the bathroom, her vagina hurt; she felt a burning sensation, and noticed blood coming from her vagina.

44. When she exited of the bathroom, she noticed the time and informed PRESLEY that he needed to leave. MV2 stated that prior to leaving, PRESLEY

showed her a video of how to have sex and said that what she was looking at, was the best way.

45. MV2 stated the second time PRESLEY came over he asked her to have sex with him again, but she declined and told him no because it hurt her too bad. After she told PRESLEY no, he asked her if she would give him oral sex by sucking his penis. MV2 stated that she began giving him oral sex on the couch in her living room. PRESLEY finished by masturbating in front of her with his hand and ejaculated while sitting on her couch. PRESLEY said he was going to jail and then just laughed, then said he was just kidding.

46. MV2 stated that PRESLEY came over a third time, but they just sat on the couch and talked. MV2 recalled sitting on the couch during PRESLEY'S third visit, when she noticed he was looking at his phone and suddenly became upset and bothered by something. MV2 asked PRESLEY if he was upset and if it was something she did, and he said no. Shortly after, PRESLEY began to tell MV2 about a situation in Norman where he had been accused of rape and that he did not do it.

47. PRESLEY told MV2 that he had been in in Norman for a track meet and was with MV1 alone, but that nothing happened; they just talked.

48. I searched PRESLEY's phone data for MV2's Snapchat username. I located Snapchat artifacts associated with MV2's username in PRESLEY's phone data, with the earliest date being December 6, 2022. The only messages located between PRESLEY and MV2 was an image of an unknown black male that PRESLEY sent, and "ok" sent by MV2 to PRESLEY.

49. Based on my investigation, the relevant criminal conduct pertaining to sexual abuse of MV2 occurred between October 1, 2023, and March 8, 2024. This is the time frame that MV2 stated she began communicating with PRESLEY, engaging in vaginal and oral sex, and the final time that MV2 spoke to PRESLEY. This is consistent with the time frame that the image on PRESLEY's device appears to have been created based on my review of the iPhone 12 data and MV2's identifying herself in the image.

50. Based on my investigation, the relevant criminal conduct regarding possession and production of child pornography occurred on February 20, 2024, when the image with filename "5A61D077-CAC4-4D79-B6CC-D042FD66201D.jpg" was created by the user of the device.

51. Based on my investigation, the fact that PRESLEY's device's location was at MV2's apartment at the same time the image of MV2 appears to have been created, it is probable that PRESLEY recorded MV2 with his iPhone without her knowledge, and later deleted the video.

CONCLUSION

52. Based on the information set forth in this affidavit, I submit there is probable cause to believe that Brandon Earl PRESLEY, DOB xx-xx-1995; SSN xxx-xx-9766, an enrolled citizen of the Muscogee (Creek) Nation, has violated 18 U.S.C. §§ 1151, 1153, and 2243(a) – Sexual Abuse of a Minor in Indian Country; 18 U.S.C.

§§ 2251(a) and 2251(e) – Production of Child Pornography; and 18 U.S.C. §§ 2252(a)(4)(B) and 2252(b)(2) – Possession of and Access with Intent to View Child Pornography, in that on or about October 1, 2023, through on or about March 8, 2024, PRESLEY sexually abused MV2 when she was 13-years-old and 14-years-old by engaging in vaginal and oral sex in Indian Country, and on or about February 20, 2024 used the same minor victim to create child pornography, and possessed child pornography.

Respectfully submitted,



Dustin L. Carder
Special Agent
Homeland Security Investigations

Subscribed and sworn via phone on the 12th day of March 2024.



JODI F. JAYNE
UNITED STATES MAGISTRATE JUDGE